

[DISCUSSION DRAFT]

116TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To exempt small seller financiers from certain licensing requirements.

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IN THE HOUSE OF REPRESENTATIVES

Mr. GONZALEZ of Texas introduced the following bill; which was referred to  
the Committee on \_\_\_\_\_

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**A BILL**

To exempt small seller financiers from certain licensing  
requirements.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 **SEC. 1. SHORT TITLE.**

5 This Act may be cited as the “Seller Finance En-  
6 hancement Act”.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

9 (1) Real-estate seller financing is a transaction  
10 in which the owner of a real estate property provides

1 financing for the buyer of that property and the  
2 buyer makes some form of a down payment to the  
3 seller and then makes installment payments to the  
4 seller over a defined period of time.

5 (2) Seller financiers provide financing in lieu of  
6 the buyer choosing to obtain a loan from a bank.

7 (3) The seller finance industry consists of small  
8 business owners who own real estate and provide fi-  
9 nancing on those properties to underserved bor-  
10 rowers who cannot or would prefer not to obtain tra-  
11 ditional financing.

12 (4) It is recognized that seller financiers are  
13 governed by each State's particular consumer protec-  
14 tion laws (including ability to repay, deceptive trade  
15 practices, and usury laws), as well as State and Fed-  
16 eral fair housing and equal opportunity laws.

17 (5) Such laws are not applicable to transactions  
18 known as "Contracts for Deed or Land Installment  
19 Contracts".

20 **SEC. 3. EXCEPTION FOR SELLER FINANCIERS WITH RE-**  
21 **SPECT TO LOAN ORIGINATOR LICENSE OR**  
22 **REGISTRATION REQUIREMENTS.**

23 Section 1504 of the S.A.F.E. Mortgage Licensing Act  
24 of 2008 (12 U.S.C. 5103) is amended by adding at the  
25 end the following:

1       “(c) EXCEPTION FOR SELLER FINANCERS.—The re-  
2 requirements of this title shall not apply to the following:

3               “(1) REAL PROPERTY SELLER FINANCERS.—

4       Any person (other than a depository institution)  
5 who, during any 12-month period—

6               “(A) originates no residential mortgage  
7 loan secured by real property that (together  
8 with any improvements thereto) has a value of  
9 more than \$200,000 (as calculated based on the  
10 principal amount of the loan and the amount of  
11 downpayment, if any);

12              “(B) originates not more than 20 residen-  
13 tial mortgage loans, where—

14              “(i) each such residential mortgage  
15 loan is secured by real property that (to-  
16 gether with any improvements thereto) has  
17 a value of \$200,000 or less (as calculated  
18 based on the principal amount of the loan  
19 and the amount of downpayment, if any);  
20 and

21              “(ii) at least one of such residential  
22 mortgage loans is secured by real property  
23 that (together with any improvements  
24 thereto) has a value of more than  
25 \$100,000 (as calculated based on the prin-

1            ciplal amount of the loan and the amount  
2            of downpayment, if any);

3            “(C) originates not more than 30 residen-  
4            tial mortgage loans, where each such residential  
5            mortgage loan is secured by real property that  
6            (together with any improvements thereto) has a  
7            value of \$100,000 or less (as calculated based  
8            on principal amount of the loan and the amount  
9            of downpayment, if any); and

10           “(D) only originates residential mortgage  
11           loans that are with respect to property that is  
12           owned by such person.

13           “(2)     MANUFACTURED     HOME     SELLER  
14           FINANCERS.—Any person (other than a depository  
15           institution) who, during any 12-month period—

16           “(A) originates not more than 30 loans  
17           that are primarily for personal, family, or  
18           household use and that are secured by a secu-  
19           rity interest on a manufactured home (as de-  
20           fined under section 603 of the National Manu-  
21           factured Housing Construction and Safety  
22           Standards Act of 1974); and

23           “(B) only originates residential mortgage  
24           loans that are with respect to property that is  
25           owned by such person.”.

1 **SEC. 4. EXCEPTION FOR SELLER FINANCERS IN THE DEFINITION OF MORTGAGE ORIGINATOR.**  
2

3 Subparagraph (E) of section 103(dd)(2) of the Truth  
4 in Lending Act (15 U.S.C. 1602(dd)(2)) is amended—

5 (1) by redesignating subparagraphs (F) and  
6 (G) as subparagraphs (G) and (H), respectively;

7 (2) by amending subparagraph (E) to read as  
8 follows:

9 “(E) does not include, with respect to a  
10 residential mortgage sale, a person or entity  
11 (including a corporation, partnership, propri-  
12 etorship, association, cooperative, estate, or  
13 trust) if—

14 “(i) such a person or entity provides  
15 seller financing, in a 12-month period, for  
16 the sale of—

17 “(I) no property where the loan  
18 is secured by real property that (to-  
19 gether with any improvements there-  
20 to) has a value of more than  
21 \$200,000 (as calculated based on  
22 principal amount of the loan and the  
23 amount of downpayment, if any);

24 “(II) not more than 20 prop-  
25 erties, where—

1           “(aa) each such loan is se-  
2           cured by real property that (to-  
3           gether with any improvements  
4           thereto) has a value of \$200,000  
5           or less (as calculated based on  
6           principal amount of the loan and  
7           the amount of downpayment, if  
8           any); and

9           “(bb) at least one such loan  
10          is secured by real property that  
11          (together with any improvements  
12          thereto) has a value of more than  
13          \$100,000 (as calculated based on  
14          principal amount of the loan and  
15          the amount of downpayment, if  
16          any) and

17          “(III) not more than 30 prop-  
18          erties, where each such loan is secured  
19          by real property that (together with  
20          any improvements thereto) has a  
21          value of \$100,000 or less (as cal-  
22          culated based on principal amount of  
23          the loan and the amount of downpay-  
24          ment, if any); and

1           “(ii) each piece of real property de-  
2           scribed under clause (i) is owned by such  
3           a person or entity and serves as security  
4           for the loan, provided that such loan—

5                   “(I) is not made by a person or  
6                   entity that has constructed, or acted  
7                   as a contractor for the construction  
8                   of, a residence on the property in the  
9                   ordinary course of business of such  
10                  person, estate, or trust;

11                   “(II) is fully amortizing;

12                   “(III) is with respect to a sale  
13                   for which the seller determines in  
14                   good faith and documents that the  
15                   buyer has a reasonable ability to pay  
16                   the seller;

17                   “(IV) has a fixed rate or an ad-  
18                   justable rate that is adjustable after 5  
19                   or more years, subject to reasonable  
20                   annual and lifetime limitations on in-  
21                   terest rate increases; and

22                   “(V) meets any other criteria the  
23                   Bureau may prescribe;”;

24                   (3) by inserting after subparagraph (E) the fol-  
25                   lowing:

1           “(F) does not include, with respect to a  
2 residential mortgage loan, a person or entity  
3 (including a corporation, partnership, propri-  
4 etorship, association, cooperative, estate, or  
5 trust) if—

6           “(i) the loan is seller financed and is  
7 a consumer loan secured by a security in-  
8 terest on a manufactured home (as defined  
9 under section 603 of the National Manu-  
10 factured Housing Construction and Safety  
11 Standards Act of 1974) ; and

12           “(ii) each home described under  
13 clause (i) is owned by such a person or en-  
14 tity and serves as security for the loan,  
15 provided that such loan—

16           “(I) is not made by a person or  
17 entity that has manufactured the  
18 manufactured home;

19           “(II) is fully amortizing;

20           “(III) is with respect to a sale  
21 for which the seller determines in  
22 good faith and documents that the  
23 buyer has a reasonable ability to pay  
24 the seller;



1                   “(IV) has a fixed rate or an ad-  
2                   justable rate that is adjustable after 5  
3                   or more years, subject to reasonable  
4                   annual and lifetime limitations on in-  
5                   terest rate increases; and

6                   “(V) meets any other criteria the  
7                   Bureau may prescribe;”.

8 **SEC. 5. REPORT ON SELLER FINANCING.**

9           (a) **STUDY.**—The Secretary of Housing and Urban  
10   Development and the Secretary of the Treasury shall  
11   jointly carry out a study on—

12           (1) the number of homes bought for under  
13           \$200,000 or 60 percent of the median home value  
14           in a given community, whichever is lower, in the  
15           United States by utilizing seller financing;

16           (2) the number of homes described under para-  
17           graph (1) sold by licensed mortgage brokers;

18           (3) the potential number of homes described  
19           under paragraph (1) which could be sold but tare  
20           not, because seller financiers are unwilling, or from  
21           a practical standpoint unable, to comply with mort-  
22           gage broker rules; and

23           (4) the potential benefit to home values and  
24           wealth creation if more homes are able to be sold  
25           utilizing seller finance.

1 (b) REPORT.—Not later than the end of the 1-year  
2 period beginning on the date of the enactment of this Act,  
3 the Secretary of Housing and Urban Development and the  
4 Secretary of the Treasury shall jointly issue a report to  
5 the Committee on Financial Services of the House of Rep-  
6 resentatives and the Committee on Banking, Housing, and  
7 Urban Affairs of the Senate containing—

8 (1) all findings and determinations made in car-  
9 rying out the study required under subsection (a);  
10 and

11 (2) data on the number of transactions utilizing  
12 seller financing 20 years, 15 years, 10 years, and 5  
13 years prior to the date of the enactment of this Act.